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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/580,084

02/28/2007

Brett Justin Eric Franzl

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EXAMINER

COGILL, JOHN M

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

12/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,084	Applicant(s) FRANZI, BRETT JUSTIN ERIC	
	Examiner JOHN COGILL	Art Unit 3782	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/18/06, 2/28/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claim 2, the phrase "other embodiments may be preferred" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "other embodiments"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-10, and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,942,827 to Norgaard (Norgaard).

With regard to claim 1, Norgaard discloses a device for mounting and supporting a load on a seat having a cooperating seat belt, comprising a base (12); a rear portion (32) having first (34) and second (38) retaining elements as claimed; a forward portion (22); and means for mounting and retaining a load (56).

The initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Norgaard which is capable of being used in the intended manner, i.e., to engage a seat belt. There is no structure in Norgaard that would prohibit such functional intended use (see MPEP 2111).

With regard to claim 3, the first and second retaining elements (34, 38) are spaced apart corresponding to the thickness (T) of a back rest (S) as claimed.

With regard to claim 4, the device is a molded base (col. 5, ln. 55) having integral upstanding rear walls (34, 38) as claimed.

With regard to claim 5, the base has a substantially flat body portion (14) and an upwardly extending portion (front end wall, col. 4 ln. 20) having a recess (22) for accommodating and retaining a belt (24).

With regard to claim 6, an arrangement (18 with 16, 52, 56) allows swivel mounting and provides a release system (60) capable of clamping an appliance into position.

With regard to claim 7, a receiving tray (44) is on the base portion between the means for mounting (56) and a seat back (S).

With regard to claim 8, Norgaard discloses a device comprising a support (56); a securing means (34, 36, 38, 22) comprising a belt retainer (22) for retaining a lap restrain belt (24) and a seat engaging component (34, 38).

With regard to claim 9, the seat engaging component comprises a first part (36) and second part (38) as claimed.

With regard to claim 10, the seat engaging component comprises a third part (34) as claimed for receiving the end of the back support of the passenger seat (S).

With regard to claim 12, the securing means comprises a base (14) having opposed end sections (front wall and rear wall) as claimed.

With regard to claim 13, the support is pivotally coupled (via 18, 52).

With regard to claim 14, a housing (44) is mounted to the base.

6. Claims 1, 8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,135,546 to Demtchouk (Demtchouk).

With regard to claim 1, Demtchouk discloses a base (4); a rear portion having first (18) and second (17) retaining elements extending from the base and configured to engage the surfaces of the seat as claimed; a forward portion (28, 29) for engaging with a seat belt (23).

With regard to claim 8, Demtchouk discloses a support (5); a securing means (17, 28, 29) comprising a belt retainer (28, 29) for retaining a lap restrain belt (23) and a seat engaging component (17).

With regard to claim 11, the belt retainer (28, 29) comprises spaced apart elements that extend outwardly to define a recess for receiving the belt (Fig. 1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Norgaard in view of US Patent No. 3,388,886 to Tucker (Tucker).

Norgaard discloses substantially the invention with retaining elements, but the retaining elements are not T-shaped as claimed.

Tucker discloses a similar device for mounting and supporting a load on a seat, wherein the rear portion (3 with 1) has a generally T-shaped form (Fig. 5) with elements (two halves of 1) that extend upwardly and downwardly as claimed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the retaining elements of Norgaard with the upward and downward extending T-shape of Tucker to provide an alternative means of engaging the seat at different locations, as is known in the art.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN COGILL whose telephone number is (571)270-7458. The examiner can normally be reached on Monday through Friday, 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3782

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. C./

Examiner, Art Unit 3782

/Justin M Larson/

Examiner, Art Unit 3782

12/7/09